HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT APPEAL No. 1167 OF 2006

Between:

Paladugu Rajendra

..... Appellant

AND

Rondi Krishna & others

.....Respondents

:: J U D G M E N T ::

Counsel for the appellant : Shri C.V. Rudra Prasad for
Shri T. Srikanth Reddy

Dated: 08.11.2006

Per G.S.SINGHVI, CJ

Feeling aggrieved by order dated 30.10.2006 passed by the learned Single Judge in W.V.M.P.No.1774 of 2006 and W.P.M.P.No.19365 of 2006 in Writ Petition No.15540 of 2006, whereby he vacated the ad interim order dated 28.07.2006 passed in his favour, the appellant has preferred this appeal under Clause 15 of the Letters Patent.

In the writ petition filed by him, the appellant has questioned the legality of orders dated 18.07.2006 passed by District Collector (P.W.), Krishna, Machilipatnam (respondent No.6 herein), whereby the officer concerned extended the tenure of the lease of the private respondents for different periods on the premise that Mandal Revenue Officer, Thotlavalluru had, during floods, stopped the quarrying of sand. It is the case of the appellant that the Andhra Pradesh Minor Mineral Concession Rules, 1966 (for short 'the Rules') do not provide for extension of the lease beyond the specified period and respondent No.6 committed a jurisdictional error by extending the term of lease of respondent Nos.1 and 2 ignoring the fact that the District Level Committee for sand auctions had declined the prayer of the private respondents.

While issuing notice to the non-petitioners, the learned Single Judge vide his order dated 28.07.2006 granted interim suspension in favour of the appellant. On notice, respondent Nos.2 and 3 filed WVMP No.1774 of 2006. After considering the

averments contained in the vacate petition, the record of the case and hearing the advocates for the parties, the learned Single Judge vacated the ex parte interim order by holding that the writ petitioner (appellant herein) has failed to make out a prima facie case for grant of interim injunction.

We have heard Shri C.V. Rudra Prasad, learned counsel for the appellant at considerable length. Prima facie, we are inclined to agree with the learned Single Judge that the case of the private respondents is covered by the ratio of judgment dated 21.04.2006 passed in Writ Appeal No.415 of 2006 – N. Radha Krishna v. R. Laxman Rao and others wherein the Court approved the principle of compassionate extension of the lease period.

We are further of the view that mere issue of notice of the writ filed by the appellant questioning order dated 18.07.2006 passed by respondent No.6 was, by itself, not sufficient for injuncting the private respondents from operating the quarries. The elements of balance of convenience and irreparable injury were clearly against the grant of an order of injunction. Therefore, the learned Single Judge did not commit any error by vacating the ad interim injunction.

The judgment of this Court in Writ Appeal No.2156 of 2005 – **Kudula Veera Venkata Satyanaraya v. The Government of Andhra Pradesh** is clearly distinguishable because, in that case, the Court was not called upon to decide the legality of compassionate extension of the term of the lease.

For the reasons stated above, the appeal is dismissed.

As a sequel to dismissal of the writ appeal, W.A.M.P.No.2428 of 2006 filed by the appellant for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

08.11.2006
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